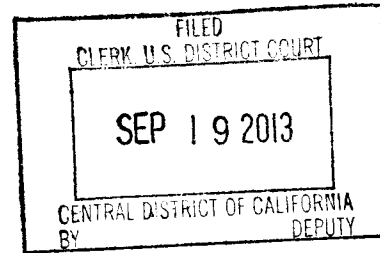


Eric Sapir (SBN: 282740)  
LAW OFFICE OF ERIC SAPIR  
15760 Ventura Blvd., Suite #700  
Encino, CA 91436  
Telephone: 818-570-3556  
Facsimile: 818-855-8063  
es@ericsapirlaw.com



Attorney for Plaintiff Carlos Betancourt

**UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF CALIFORNIA  
WESTERN DIVISION**

CARLOS BETANCOURT, an  
individual,

Plaintiff,

vs.

CASABLANCA EXPRESS., a  
California Corporation; and  
CASABLANCA EXPRESS NEVADA  
LLC, a Nevada limited liability  
company,

Defendants.

) Case No. **CV 13-06927**-(SLO)  
)  
)  
) **COMPLAINT FOR DAMAGES**  
) **PURSUANT TO § 227 ET SEQ.**  
) **(TELEPHONE CONSUMER**  
) **PROTECTION ACT)**

) [JURY TRIAL DEMANDED]

## I. INTRODUCTION

1  
2  
3 1. Carlos Betancourt (“Plaintiff”) brings this action for damages, and  
4 other available legal or equitable remedies, resulting from the illegal actions of  
5 CASABLANCA EXPRESS and CASABLANCA EXPRESS NEVADA LLC  
6 (“Defendants”), in negligently, knowingly, and/or willfully contacting Plaintiff on  
7 Plaintiff’s cellular telephone, in violation of the Telephone Consumer Protection  
8 Act, 47 U.S.C. § 227 et. seq. (“TCPA”), thereby invading Plaintiff’s privacy.  
9  
10

## II. JURISDICTION AND VENUE

11  
12 2. This Court has original federal question jurisdiction over the parties  
13 and the TCPA claims asserted herein pursuant to 47 U.S.C. §227, *et seq.*  
14

15 3. Venue is proper in the United States District Court for the Central  
16 District of California pursuant to 28 U.S.C. § 1391(b)(2) because all or a  
17 substantial part of the events giving rise to the claims herein occurred within the  
18 State of California and the County of Ventura, including Plaintiff’s receipt of  
19 Defendants’ thirteen telemarketing calls to Plaintiff’s telephone.  
20  
21

## III. PARTIES

22  
23  
24 4. Plaintiff is, and at all times mentioned herein was, an individual  
25 citizen of the State of California, and resident of the County of Ventura. Plaintiff  
26 is a cellular telephone subscriber, and he places and receives telephone calls  
27  
28

1 through the use of his cellular telephone having the telephone number of 805-404  
2 -6841 ("Plaintiff's Cellular Telephone Number").  
3

4 5. Upon information and belief, at all times relevant hereto, Defendant  
5 CASABLANCA EXPRESS has been a California corporation having its principal  
6 place of business located at 6300 Canoga Ave., Suite 550, Woodland Hills, CA  
7 91367.  
8

9 6. Upon information and belief, at all times relevant hereto, Defendant  
10 CASABLANCA EXPRESS NEVADA LLC has been a Nevada limited liability  
11 company having its principal place of business located at 6623 S. Las Vegas  
12 Blvd., Suite 220, Las Vegas, NV 89119.  
13  
14

15 7. At all times relevant hereto, while conducting business in California,  
16 Defendants have been subject to, and required to abide by, the laws of the United  
17 States and the State of California, which include the Telephone Consumer  
18 Protection Act ("TCPA"), 47 U.S.C. §227, *et seq.*, and its related regulations  
19 ("TCPA Regulations") that are set forth at 47 C.F.R. §64.1200, as well as the  
20 opinions, regulations and orders issued by Courts and the Federal  
21 Communications Commission ("FCC") implementing and enforcing the TCPA.  
22  
23  
24

#### 25 **IV. FACTUAL ALLEGATIONS**

26 8. Plaintiff registered his Cellular Telephone Number with the National  
27 Do Not Call Registry on July 27, 2003.  
28

1           9.     Plaintiff is informed and believes, and thereon alleges, that on  
2 multiple occasions, all prior to the date this Complaint was filed, but sometime  
3 after four years prior to the date this Complaint was filed, Defendants contacted  
4 Plaintiff on Plaintiff's cellular telephone on 13 separate occasions without  
5 Plaintiff's consent.  
6  
7

8           10.    Plaintiff is informed and believes, and thereon alleges, that on  
9 multiple occasions, all prior to the date this Complaint was filed, but sometime  
10 after four years prior to the date this Complaint was filed, during several of the  
11 solicited telephone calls with Defendants Plaintiff requested and demanded  
12 Defendants to cease contact with him and place him on their Do Not Call list,  
13 each time to no avail.  
14  
15

16           11.    Plaintiff is informed and believes, and thereon alleges, that on  
17 multiple occasions, all prior to the date this Complaint was filed, but sometime  
18 after four years prior to the date this Complaint was filed, during several of the  
19 solicited telephone calls with Defendants, Plaintiff asked for specific identifying  
20 information about Defendants, each time to no avail.  
21  
22

23           12.    Plaintiff is informed and believes, and thereon alleges, that on  
24 multiple occasions, all prior to the date this Complaint was filed, but sometime  
25 after four years prior to the date this Complaint was filed, during several of the  
26  
27  
28

1 solicited telephone calls with Defendants, when Plaintiff would ask Defendants  
2 for additional information, Defendants would hang up the phone.  
3

4 13. Since Defendants refused to provide Plaintiff with identifying  
5 information about their company, Plaintiff purchased a product from Defendants  
6 during one of the solicited telephone calls on or about June 12, 2013. Only after  
7 the purchase was Plaintiff provided with the true name of Defendants.  
8

9 14. Upon information and belief: (a) on July 21, 2012, at approximately  
10 12:27 p.m., without Plaintiff's prior express permission or invitation, Defendants  
11 or their authorized agent knowingly and/or willfully placed a telemarketing call  
12 (the "First Call") to Plaintiff's Cellular Telephone Number for the commercial  
13 purpose of selling vacation packages; and (b) in regard to such call, Defendants or  
14 their authorized agent knowingly and/or willfully:  
15  
16  
17

- 18 (a) Called without Plaintiff's prior express consent;
- 19 (b) Made the call using an automatic dialing system;
- 20 (c) Failed to voluntarily state the caller's name; and
- 21 (d) Failed to voluntarily state the caller's telephone number or  
22 address where the caller may be contacted;  
23  
24  
25  
26  
27  
28

1           15. During the First Call, Plaintiff asked Defendants or their authorized  
2 agent to place Plaintiff's name and Plaintiff's Telephone Number on Defendant's  
3 Do-No-Call List.  
4

5           16. Upon information and belief: (a) on November 1, 2012, at  
6 approximately 7:04 p.m., without Plaintiff's prior express permission or  
7 invitation, Defendants or their authorized agent knowingly and/or willfully placed  
8 a telemarketing call (the "Second Call") to Plaintiff's Cellular Telephone Number  
9 for the commercial purpose of selling vacation packages. Again, Plaintiff asked  
10 Defendants or their authorized agent to place Plaintiff's name and Plaintiff's  
11 Telephone Number on Defendant's Do-No-Call List. In regard to such call,  
12 Defendants or their authorized agent knowingly and/or willfully:  
13  
14  
15

- 16           (a) Called without Plaintiff's prior express consent;  
17  
18           (b) Made the call using an automatic dialing system;  
19  
20           (c) Failed to voluntarily state the caller's name;  
21  
22           (d) Failed to maintain a record of Plaintiff's previous demand that  
23 the caller place Plaintiff's name on its Do-Not-Call List;  
24  
25           (e) Failed to honor Plaintiff's previous demand that the caller  
26 place Plaintiff's name on its Do-Not-Call List; and  
27  
28           (f) Failed to state at the beginning of the call that the purpose of  
the call was to make a sale.

1 (g) Failed to record Plaintiff's name and/or telephone number on  
2 its Do-Not-Call List; and

3  
4 (h) Failed to train the caller's live representative in the  
5 maintenance and use of its Do-Not-Call List.  
6

7 17. Upon information and belief: (a) on November 5, 2012, at  
8 approximately 5:51 p.m., without Plaintiff's prior express permission or  
9 invitation, Defendants or their authorized agent knowingly and/or willfully placed  
10 a telemarketing call (the "Third Call") to Plaintiff's Cellular Telephone Number  
11 for the commercial purpose of selling vacation packages. Again, Plaintiff asked  
12 Defendants or their authorized agent to place Plaintiff's name and Plaintiff's  
13 Telephone Number on Defendant's Do-No-Call List. In regard to such call,  
14 Defendants or their authorized agent knowingly and/or willfully:  
15  
16  
17

18 (a) Called without Plaintiff's prior express consent;

19 (b) Made the call using an automatic dialing system;

20 (c) Failed to voluntarily state the caller's name;

21 (d) Failed to maintain a record of Plaintiff's previous demand that  
22 the caller place Plaintiff's name on its Do-Not-Call List;  
23

24 (e) Failed to honor Plaintiff's previous demand that the caller  
25 place Plaintiff's name on its Do-Not-Call List; and  
26  
27  
28

1 (f) Failed to state at the beginning of the call that the purpose of  
2 the call was to make a sale.

3  
4 (g) Failed to record Plaintiff's name and/or telephone number on  
5 its Do-Not-Call List; and

6  
7 (h) Failed to train the caller's live representative in the  
8 maintenance and use of its Do-Not-Call List.

9  
10 18. Upon information and belief: (a) on November 9, 2012, at  
11 approximately 8:09 p.m., without Plaintiff's prior express permission or  
12 invitation, Defendants or their authorized agent knowingly and/or willfully placed  
13 a telemarketing call (the "Fourth Call") to Plaintiff's Cellular Telephone Number  
14 for the commercial purpose of selling vacation packages. Again, Plaintiff asked  
15 Defendants or their authorized agent to place Plaintiff's name and Plaintiff's  
16 Telephone Number on Defendant's Do-No-Call List. In regard to such call,  
17 Defendants or their authorized agent knowingly and/or willfully:  
18  
19  
20

21 (a) Called without Plaintiff's prior express consent;

22 (b) Made the call using an automatic dialing system;

23 (c) Failed to voluntarily state the caller's name;

24 (d) Failed to maintain a record of Plaintiff's previous demand that  
25 the caller place Plaintiff's name on its Do-Not-Call List;  
26  
27  
28



- (e) Failed to honor Plaintiff's previous demand that the caller place Plaintiff's name on its Do-Not-Call List; and
- (f) Failed to state at the beginning of the call that the purpose of the call was to make a sale.
- (g) Failed to record Plaintiff's name and/or telephone number on its Do-Not-Call List; and
- (h) Failed to train the caller's live representative in the maintenance and use of its Do-Not-Call List.

19. Upon information and belief: (a) on December 30, 2012, at approximately 2:17 p.m., without Plaintiff's prior express permission or invitation, Defendants or their authorized agent knowingly and/or willfully placed a telemarketing call (the "Fifth Call") to Plaintiff's Cellular Telephone Number for the commercial purpose of selling vacation packages. Again, Plaintiff asked Defendants or their authorized agent to place Plaintiff's name and Plaintiff's Telephone Number on Defendant's Do-No-Call List. In regard to such call, Defendants or their authorized agent knowingly and/or willfully:

- (a) Called without Plaintiff's prior express consent;
- (b) Made the call using an automatic dialing system;
- (c) Failed to voluntarily state the caller's name;

- (d) Failed to maintain a record of Plaintiff's previous demand that the caller place Plaintiff's name on its Do-Not-Call List;
- (e) Failed to honor Plaintiff's previous demand that the caller place Plaintiff's name on its Do-Not-Call List; and
- (f) Failed to state at the beginning of the call that the purpose of the call was to make a sale.
- (g) Failed to record Plaintiff's name and/or telephone number on its Do-Not-Call List; and
- (h) Failed to train the caller's live representative in the maintenance and use of its Do-Not-Call List.

20. Upon information and belief: (a) on December 31, 2012, at approximately 2:54 p.m., without Plaintiff's prior express permission or invitation, Defendants or their authorized agent knowingly and/or willfully placed a telemarketing call (the "Sixth Call") to Plaintiff's Cellular Telephone Number for the commercial purpose of selling vacation packages. Again, Plaintiff asked Defendants or their authorized agent to place Plaintiff's name and Plaintiff's Telephone Number on Defendant's Do-No-Call List. In regard to such call, Defendants or their authorized agent knowingly and/or willfully:

- (a) Called without Plaintiff's prior express consent;
- (b) Made the call using an automatic dialing system;

- (c) Failed to voluntarily state the caller's name;
- (d) Failed to maintain a record of Plaintiff's previous demand that the caller place Plaintiff's name on its Do-Not-Call List;
- (e) Failed to honor Plaintiff's previous demand that the caller place Plaintiff's name on its Do-Not-Call List; and
- (f) Failed to state at the beginning of the call that the purpose of the call was to make a sale.
- (g) Failed to record Plaintiff's name and/or telephone number on its Do-Not-Call List; and
- (h) Failed to train the caller's live representative in the maintenance and use of its Do-Not-Call List.

21. Upon information and belief: (a) on February 26, 2013, at approximately 5:04 p.m., without Plaintiff's prior express permission or invitation, Defendants or their authorized agent knowingly and/or willfully placed a telemarketing call (the "Seventh Call") to Plaintiff's Cellular Telephone Number for the commercial purpose of selling vacation packages. Again, Plaintiff asked Defendants or their authorized agent to place Plaintiff's name and Plaintiff's Telephone Number on Defendant's Do-No-Call List. In regard to such call, Defendants or their authorized agent knowingly and/or willfully:

- (a) Called without Plaintiff's prior express consent;

- (b) Made the call using an automatic dialing system;
- (c) Failed to voluntarily state the caller's name;
- (d) Failed to maintain a record of Plaintiff's previous demand that the caller place Plaintiff's name on its Do-Not-Call List;
- (e) Failed to honor Plaintiff's previous demand that the caller place Plaintiff's name on its Do-Not-Call List; and
- (f) Failed to state at the beginning of the call that the purpose of the call was to make a sale.
- (g) Failed to record Plaintiff's name and/or telephone number on its Do-Not-Call List; and
- (h) Failed to train the caller's live representative in the maintenance and use of its Do-Not-Call List.

22. Upon information and belief: (a) on May 4, 2013, at approximately 10:54 a.m., without Plaintiff's prior express permission or invitation, Defendants or their authorized agent knowingly and/or willfully placed a telemarketing call (the "Eighth Call") to Plaintiff's Cellular Telephone Number for the commercial purpose of selling vacation packages. Again, Plaintiff asked Defendants or their authorized agent to place Plaintiff's name and Plaintiff's Telephone Number on Defendant's Do-No-Call List. In regard to such call, Defendants or their authorized agent knowingly and/or willfully:

- (a) Called without Plaintiff's prior express consent;
- (b) Made the call using an automatic dialing system;
- (c) Failed to voluntarily state the caller's name;
- (d) Failed to maintain a record of Plaintiff's previous demand that the caller place Plaintiff's name on its Do-Not-Call List;
- (e) Failed to honor Plaintiff's previous demand that the caller place Plaintiff's name on its Do-Not-Call List; and
- (f) Failed to state at the beginning of the call that the purpose of the call was to make a sale.
- (g) Failed to record Plaintiff's name and/or telephone number on its Do-Not-Call List; and
- (h) Failed to train the caller's live representative in the maintenance and use of its Do-Not-Call List.

23. Upon information and belief: (a) on June 3, 2013, at approximately 9:47 a.m., without Plaintiff's prior express permission or invitation, Defendants or their authorized agent knowingly and/or willfully placed a telemarketing call (the "Ninth Call") to Plaintiff's Cellular Telephone Number for the commercial purpose of selling vacation packages. Again, Plaintiff asked Defendants or their authorized agent to place Plaintiff's name and Plaintiff's Telephone Number on

1 Defendant's Do-No-Call List. In regard to such call, Defendants or their  
2 authorized agent knowingly and/or willfully:  
3

- 4 (a) Called without Plaintiff's prior express consent;
- 5 (b) Made the call using an automatic dialing system;
- 6 (c) Failed to voluntarily state the caller's name;
- 7 (d) Failed to maintain a record of Plaintiff's previous demand that  
8 the caller place Plaintiff's name on its Do-Not-Call List;  
9
- 10 (e) Failed to honor Plaintiff's previous demand that the caller  
11 place Plaintiff's name on its Do-Not-Call List; and  
12
- 13 (f) Failed to state at the beginning of the call that the purpose of  
14 the call was to make a sale.  
15
- 16 (g) Failed to record Plaintiff's name and/or telephone number on  
17 its Do-Not-Call List; and  
18
- 19 (h) Failed to train the caller's live representative in the  
20 maintenance and use of its Do-Not-Call List.  
21

22 24. Upon information and belief: (a) on June 12, 2013, at approximately  
23 7:00 p.m., without Plaintiff's prior express permission or invitation, Defendants  
24 or their authorized agent knowingly and/or willfully placed a telemarketing call  
25 (the "Tenth Call") to Plaintiff's Cellular Telephone Number for the commercial  
26  
27  
28

1 purpose of selling vacation packages. In regard to such call, Defendants or their  
2 authorized agent knowingly and/or willfully:

- 3 (a) Called without Plaintiff's prior express consent;
- 4 (b) Made the call using an automatic dialing system;
- 5 (c) Failed to voluntarily state the caller's name;
- 6 (d) Failed to maintain a record of Plaintiff's previous demand that  
7 the caller place Plaintiff's name on its Do-Not-Call List;
- 8 (e) Failed to honor Plaintiff's previous demand that the caller  
9 place Plaintiff's name on its Do-Not-Call List; and
- 10 (f) Failed to state at the beginning of the call that the purpose of  
11 the call was to make a sale.
- 12 (g) Failed to record Plaintiff's name and/or telephone number on  
13 its Do-Not-Call List; and
- 14 (h) Failed to train the caller's live representative in the  
15 maintenance and use of its Do-Not-Call List.

16  
17  
18  
19  
20  
21  
22 25. Upon information and belief: (a) on July 13, 2013, at approximately  
23 1:46 p.m., without Plaintiff's prior express permission or invitation, Defendants  
24 or their authorized agent knowingly and/or willfully placed a telemarketing call  
25 (the "Eleventh Call") to Plaintiff's Cellular Telephone Number for the  
26  
27  
28

1 commercial purpose of selling vacation packages. Again, Plaintiff asked  
2 Defendants or their authorized agent to place Plaintiff's name and Plaintiff's  
3 Telephone Number on Defendant's Do-No-Call List. In regard to such call,  
4 Defendants or their authorized agent knowingly and/or willfully:

- 5 (a) Called without Plaintiff's prior express consent;
- 6 (b) Made the call using an automatic dialing system;
- 7 (c) Failed to voluntarily state the caller's name;
- 8 (d) Failed to maintain a record of Plaintiff's previous demand that  
9 the caller place Plaintiff's name on its Do-Not-Call List;
- 10 (e) Failed to honor Plaintiff's previous demand that the caller  
11 place Plaintiff's name on its Do-Not-Call List; and
- 12 (f) Failed to state at the beginning of the call that the purpose of  
13 the call was to make a sale.
- 14 (g) Failed to record Plaintiff's name and/or telephone number on  
15 its Do-Not-Call List; and
- 16 (h) Failed to train the caller's live representative in the  
17 maintenance and use of its Do-Not-Call List.

18  
19  
20  
21  
22  
23 26. On July 24, 2013, Defendants received a notice from Plaintiff's  
24 attorney, Eric Sapir, Esq., advising them of their violations, along with a request  
25 to cease and desist all solicitation activities directed towards Plaintiff.  
26  
27  
28



1           27. Upon information and belief: (a) on July 30, 2013, at approximately  
2 7:22 p.m., without Plaintiff's prior express permission or invitation, Defendants  
3 or their authorized agent knowingly and/or willfully placed a telemarketing call  
4 (the "Twelfth Call") to Plaintiff's Cellular Telephone Number for the commercial  
5 purpose of selling vacation packages. Again, Plaintiff asked Defendants or their  
6 authorized agent to place Plaintiff's name and Plaintiff's Telephone Number on  
7 Defendant's Do-No-Call List. In regard to such call, Defendants or their  
8 authorized agent knowingly and/or willfully:  
9  
10  
11

- 12           (a) Called without Plaintiff's prior express consent;
- 13           (b) Made the call using an automatic dialing system;
- 14           (c) Failed to voluntarily state the caller's name;
- 15           (d) Failed to maintain a record of Plaintiff's previous demand that  
16           the caller place Plaintiff's name on its Do-Not-Call List;
- 17           (e) Failed to honor Plaintiff's previous demand that the caller  
18           place Plaintiff's name on its Do-Not-Call List; and
- 19           (f) Failed to state at the beginning of the call that the purpose of  
20           the call was to make a sale.
- 21           (g) Failed to record Plaintiff's name and/or telephone number on  
22           its Do-Not-Call List; and  
23  
24  
25  
26  
27  
28

1 (h) Failed to train the caller's live representative in the  
2 maintenance and use of its Do-Not-Call List.  
3

4 28. Upon information and belief: (a) on August 1, 2013, at  
5 approximately 6:00 p.m., without Plaintiff's prior express permission or  
6 invitation, Defendants or their authorized agent knowingly and/or willfully placed  
7 a telemarketing call (the "Thirteenth Call") to Plaintiff's Cellular Telephone  
8 Number for the commercial purpose of selling vacation packages. Again,  
9 Plaintiff asked Defendants or their authorized agent to place Plaintiff's name and  
10 Plaintiff's Telephone Number on Defendant's Do-No-Call List. In regard to such  
11 call, Defendants or their authorized agent knowingly and/or willfully:  
12  
13  
14

- 15 (a) Called without Plaintiff's prior express consent;  
16  
17 (b) Made the call using an automatic dialing system;  
18  
19 (c) Failed to voluntarily state the caller's name;  
20  
21 (d) Failed to maintain a record of Plaintiff's previous demand that  
22 the caller place Plaintiff's name on its Do-Not-Call List;  
23  
24 (e) Failed to honor Plaintiff's previous demand that the caller  
25 place Plaintiff's name on its Do-Not-Call List; and  
26  
27 (f) Failed to state at the beginning of the call that the purpose of  
28 the call was to make a sale.

1 (g) Failed to record Plaintiff's name and/or telephone number on  
2 its Do-Not-Call List; and

3  
4 (h) Failed to train the caller's live representative in the  
5 maintenance and use of its Do-Not-Call List.  
6

7 29. In regard to each of the above-described 13 calls to Plaintiff's  
8 telephone:

9 (a) Plaintiff was a "recipient" as this term is used in 47 U.S.C.  
10 §227, *et seq.*;

11  
12 (b) Each call was initiated for the purpose of encouraging the  
13 purchase or rental of, or investment in, property, goods, or  
14 services and, therefore, each was a "telephone solicitation" as  
15 defined in 47 U.S.C. §227(a)(3);  
16  
17

18 (c) Each of the calls contained material advertising the  
19 commercial availability or quality of property, goods or  
20 services, which was transmitted to Plaintiff without Plaintiff's  
21 prior express invitation or permission, in writing or otherwise  
22 and, therefore, was an "unsolicited advertisement" as defined  
23 in 47 U.S.C. §227(a)(5); and  
24  
25  
26  
27  
28

1 (d) Each of the calls were made using an automatic dialing system  
2 to Plaintiff's Cellular Telephone, as defined in 47 U.S.C.  
3 §227(a)(3).  
4

5 **COUNT 1**

6  
7 **First Call - Violation of TCPA Regulation**  
8 **47 U.S.C. §227(b)(1)(A)(iii)**  
9 **(Against All Defendants)**

10 30. Plaintiff hereby incorporates, as if fully rewritten herein, all  
11 foregoing paragraphs.

12 31. Defendants' conduct, in placing the First Call to Plaintiff's Cellular  
13 Telephone with an automatic dialing system to deliver an unsolicited  
14 advertisement to Plaintiff without Plaintiff's prior express consent or approval,  
15 constitutes a violation of 47 U.S.C. §227(b)(1)(A)(iii) and, therefore, Plaintiff is  
16 entitled to an award of statutory damages in the minimum amount of \$500 for this  
17 violation.

18 32. Defendant's conduct, in placing the First Call to Plaintiff's Cellular  
19 Telephone with an automated dialing system to deliver an unsolicited  
20 advertisement to Plaintiff without Plaintiff's prior express consent or approval,  
21 constitutes a knowing and/or willful violation of 47 U.S.C. §227(b)(1)(A)(iii)  
22 and, therefore, Plaintiff is entitled to an award of statutory treble damages in the  
23 amount of \$1,500 for this violation.  
24  
25  
26  
27  
28

**COUNT 2**

**First Call - Violation of TCPA Regulation  
47 C.F.R. §64.1200(d)(4)  
(Against All Defendants)**

33. Plaintiff hereby incorporates, as if fully rewritten herein, all foregoing paragraphs.

34. Defendants' conduct, in placing the First Call to Plaintiff's telephone and failing to voluntarily identify by name the business, individual, or other entity initiating the call at the beginning of the message, violates 47 C.F.R. §64.1200(d)(4) and, therefore, Plaintiff is entitled to an award of statutory damages in the minimum amount of \$500 for this violation.

35. Defendants' conduct, in placing the First Call to Plaintiff's telephone and failing to voluntarily identify by name the business, individual, or other entity initiating the call at the beginning of the message, constitutes a knowing and/or willful violation of 47 C.F.R. §64.1200(d)(4) and, therefore, Plaintiff is entitled to an award of statutory treble damages in the amount of \$1,500 for this violation.

**COUNT 3**

**First Call - Violation of TCPA Regulation  
47 C.F.R. §64.1200(d)(4)  
(Against All Defendants)**

36. Plaintiff hereby incorporates, as if fully rewritten herein, all foregoing paragraphs.



**COUNT 5**

42. Plaintiff hereby incorporates, as if fully rewritten herein, all of the foregoing paragraphs.

44. Because Defendants knowingly and/or willfully violated 47 U.S.C. §227(c)(5)(B) and 47 C.F.R. §64.1200(d)(3), Plaintiff is entitled to an award of statutory treble damages in the amount of \$1,500.

**COUNT 6**

**Second Call – Violation of the TCPA and TCPA Regulations  
47 U.S.C. §227(c)(5)(B) and 47 C.F.R. §64.1200(d)(2))  
(Against All Defendants)**

45. Plaintiff hereby incorporates, as if fully rewritten herein, all of the foregoing paragraphs.

46. In placing the Second Call to deliver a telephone solicitation to Plaintiff's Cellular Telephone, and failing to train the person making the call in the proper maintenance and use of its Do-Not-Call List, Defendants knowingly and/or willfully violated 47 U.S.C. §227(c)(5)(B) and 47 C.F.R. §64.1200(d)(2).

47. Because Defendants knowingly and/or willfully violated 47 U.S.C. §227(c)(5)(B) and 47 C.F.R. §64.1200(d)(2), Plaintiff is entitled to an award of statutory treble damages in the amount of \$1,500.

**COUNT 7**

**Second Call – Violation of the TCPA and TCPA Regulations  
47 C.F.R. §64.1200(d)(4))  
(Against All Defendants)**

48. Plaintiff hereby incorporates, as if fully rewritten herein, all foregoing paragraphs.

49. Defendants' conduct, in placing the Second Call to Plaintiff's Cellular Telephone and failing to voluntarily identify by name the business, individual, or other entity initiating the call at the beginning of the message,



1 violates 47 C.F.R. §64.1200(d)(4) and, therefore, Plaintiff is entitled to an award  
2 of statutory damages in the minimum amount of \$500 for this violation.  
3

4 50. Defendant's conduct, in placing the Second Call to Plaintiff's  
5 Cellular Telephone and failing to voluntarily identify by name the business,  
6 individual, or other entity initiating the call at the beginning of the message,  
7 constitutes a knowing and/or willful violation of 47 C.F.R. §64.1200(d)(4) and,  
8 therefore, Plaintiff is entitled to an award of statutory treble damages in the  
9 amount of \$1,500 for this violation.  
10  
11

12 **COUNT 8**  
13

14 **Second Call - Violation of TCPA Regulation**  
15 **47 U.S.C. §227(c)(5)(B) and 47 C.F.R. §64.1200(d)(6)**  
16 **(Against All Defendants)**

17 51. Plaintiff hereby incorporates, as if fully rewritten herein, all of the  
18 foregoing paragraphs.  
19

20 52. In placing the Second Call to deliver a telephone solicitation to  
21 Plaintiff's Cellular Telephone, and failing to maintain a record of Plaintiff's  
22 previous demand that the caller place his name and/or telephone number on its  
23 Do-Not-Call List, Defendants knowingly and/or willfully violated 47 U.S.C.  
24 §227(c)(5)(B) and 47 C.F.R. §64.1200(d)(6).  
25  
26  
27  
28

**Third Call - Violation of TCPA Regulation  
47 U.S.C. §227(b)(1)(A)(iii)  
(Against All Defendants)**

**COUNT 10**

**Third Call – Violation of the TCPA and TCPA Regulations  
47 U.S.C. §227(c)(5)(B) and 47 C.F.R. §64.1200(d)(3))  
(Against All Defendants)**

57. Plaintiff hereby incorporates, as if fully rewritten herein, all of the foregoing paragraphs.

58. In placing the Third Call to deliver a telephone solicitation to Plaintiff's Cellular Telephone, and failing to record Plaintiff's name and/or telephone number on its Do-Not-Call List pursuant to Plaintiff's request, Defendants knowingly and/or willfully violated 47 U.S.C. §227(c)(5)(B) and 47 C.F.R. §64.1200(d)(3).

59. Because Defendants knowingly and/or willfully violated 47 U.S.C. §227(c)(5)(B) and 47 C.F.R. §64.1200(d)(3), Plaintiff is entitled to an award of statutory treble damages in the amount of \$1,500.

**COUNT 11**

**Third Call – Violation of the TCPA and TCPA Regulations  
47 U.S.C. §227(c)(5)(B) and 47 C.F.R. §64.1200(d)(2))  
(Against All Defendants)**

60. Plaintiff hereby incorporates, as if fully rewritten herein, all of the foregoing paragraphs.

61. In placing the Third Call to deliver a telephone solicitation to Plaintiff's Cellular Telephone, and failing to train the person making the call in

1 the proper maintenance and use of its Do-Not-Call List, Defendants knowingly  
2 and/or willfully violated 47 U.S.C. §227(c)(5)(B) and 47 C.F.R. §64.1200(d)(2).  
3

4 62. Because Defendants knowingly and/or willfully violated 47 U.S.C.  
5 §227(c)(5)(B) and 47 C.F.R. §64.1200(d)(2), Plaintiff is entitled to an award of  
6 statutory treble damages in the amount of \$1,500.  
7

8 **COUNT 12**

9  
10 **Third Call – Violation of the TCPA and TCPA Regulations**  
11 **47 C.F.R. §64.1200(d)(4))**  
**(Against All Defendants)**

12 63. Plaintiff hereby incorporates, as if fully rewritten herein, all  
13 foregoing paragraphs.  
14

15 64. Defendants' conduct, in placing the Third Call to Plaintiff's Cellular  
16 Telephone and failing to voluntarily identify by name the business, individual, or  
17 other entity initiating the call at the beginning of the message, violates 47 C.F.R.  
18 §64.1200(d)(4) and, therefore, Plaintiff is entitled to an award of statutory  
19 damages in the minimum amount of \$500 for this violation.  
20  
21

22 65. Defendant's conduct, in placing the Third Call to Plaintiff's Cellular  
23 Telephone and failing to voluntarily identify by name the business, individual, or  
24 other entity initiating the call at the beginning of the message, constitutes a  
25 knowing and/or willful violation of 47 C.F.R. §64.1200(d)(4) and, therefore,  
26  
27  
28

1 Plaintiff is entitled to an award of statutory treble damages in the amount of  
2 \$1,500 for this violation.  
3

4 **COUNT 13**

5 **Third Call - Violation of TCPA Regulation**  
6 **47 U.S.C. §227(c)(5)(B) and 47 C.F.R. §64.1200(d)(6)**  
7 **(Against All Defendants)**

8 66. Plaintiff hereby incorporates, as if fully rewritten herein, all of the  
9 foregoing paragraphs.  
10

11 67. In placing the Third Call to deliver a telephone solicitation to  
12 Plaintiff's Cellular Telephone, and failing to maintain a record of Plaintiff's  
13 previous demand that the caller place his name and/or telephone number on its  
14 Do-Not-Call List, Defendants knowingly and/or willfully violated 47 U.S.C.  
15 §227(c)(5)(B) and 47 C.F.R. §64.1200(d)(6).  
16  
17

18 68. Because Defendants knowingly and/or willfully violated 47 U.S.C.  
19 §227(c)(5)(B) and 47 C.F.R. §64.1200(d)(6), Plaintiff is entitled to an award of  
20 statutory treble damages in the amount of \$1,500.  
21

22 **COUNT 14**

23 **Fourth Call - Violation of TCPA Regulation**  
24 **47 U.S.C. §227(b)(1)(A)(iii)**  
25 **(Against All Defendants)**

26 69. Plaintiff hereby incorporates, as if fully rewritten herein, all  
27 foregoing paragraphs.  
28

1       70. Defendants' conduct, in placing the Fourth Call to Plaintiff's  
2 Cellular Telephone with an automatic dialing system to deliver an unsolicited  
3 advertisement to Plaintiff without Plaintiff's prior express consent or approval,  
4 constitutes a violation of 47 U.S.C. §227(b)(1)(A)(iii) and, therefore, Plaintiff is  
5 entitled to an award of statutory damages in the minimum amount of \$500 for this  
6 violation.

7       71. Defendant's conduct, in placing the Fourth Call to Plaintiff's  
8 Cellular Telephone with an automated dialing system to deliver an unsolicited  
9 advertisement to Plaintiff without Plaintiff's prior express consent or approval,  
10 constitutes a knowing and/or willful violation of 47 U.S.C. §227(b)(1)(A)(iii)  
11 and, therefore, Plaintiff is entitled to an award of statutory treble damages in the  
12 amount of \$1,500 for this violation.

13                                   **COUNT 15**

14                   **Fourth Call – Violation of the TCPA and TCPA Regulations**  
15                   **47 U.S.C. §227(c)(5)(B) and 47 C.F.R. §64.1200(d)(3))**  
16                   **(Against All Defendants)**

17       72. Plaintiff hereby incorporates, as if fully rewritten herein, all of the  
18 foregoing paragraphs.

19  
20       73. In placing the Fourth Call to deliver a telephone solicitation to  
21 Plaintiff's Cellular Telephone, and failing to record Plaintiff's name and/or  
22 telephone number on its Do-Not-Call List pursuant to Plaintiff's request,  
23 Defendants knowingly and/or willfully violated 47 U.S.C. §227(c)(5)(B) and 47  
24 C.F.R. §64.1200(d)(3).  
25  
26  
27  
28







1 Do-Not-Call List, Defendants knowingly and/or willfully violated 47 U.S.C.  
 2 §227(c)(5)(B) and 47 C.F.R. §64.1200(d)(6).  
 3

4 83. Because Defendants knowingly and/or willfully violated 47 U.S.C.  
 5 §227(c)(5)(B) and 47 C.F.R. §64.1200(d)(6), Plaintiff is entitled to an award of  
 6 statutory treble damages in the amount of \$1,500.  
 7

### 8 **COUNT 19**

#### 9 **Fifth Call - Violation of TCPA Regulation** 10 **47 U.S.C. §227(b)(1)(A)(iii)** 11 **(Against All Defendants)**

12 84. Plaintiff hereby incorporates, as if fully rewritten herein, all  
 13 foregoing paragraphs.

14 85. Defendants' conduct, in placing the Fifth Call to Plaintiff's Cellular  
 15 Telephone with an automatic dialing system to deliver an unsolicited  
 16 advertisement to Plaintiff without Plaintiff's prior express consent or approval,  
 17 constitutes a violation of 47 U.S.C. §227(b)(1)(A)(iii) and, therefore, Plaintiff is  
 18 entitled to an award of statutory damages in the minimum amount of \$500 for this  
 19 violation.

20 86. Defendant's conduct, in placing the Fifth Call to Plaintiff's Cellular  
 21 Telephone with an automated dialing system to deliver an unsolicited  
 22 advertisement to Plaintiff without Plaintiff's prior express consent or approval,  
 23 constitutes a knowing and/or willful violation of 47 U.S.C. §227(b)(1)(A)(iii)  
 24 and, therefore, Plaintiff is entitled to an award of statutory treble damages in the  
 25 amount of \$1,500 for this violation.  
 26  
 27  
 28

**COUNT 20**

**Fifth Call – Violation of the TCPA and TCPA Regulations  
47 U.S.C. §227(c)(5)(B) and 47 C.F.R. §64.1200(d)(3))  
(Against All Defendants)**

87. Plaintiff hereby incorporates, as if fully rewritten herein, all of the foregoing paragraphs.

88. In placing the Fifth Call to deliver a telephone solicitation to Plaintiff's Cellular Telephone, and failing to record Plaintiff's name and/or telephone number on its Do-Not-Call List pursuant to Plaintiff's request, Defendants knowingly and/or willfully violated 47 U.S.C. §227(c)(5)(B) and 47 C.F.R. §64.1200(d)(3).

89. Because Defendants knowingly and/or willfully violated 47 U.S.C. §227(c)(5)(B) and 47 C.F.R. §64.1200(d)(3), Plaintiff is entitled to an award of statutory treble damages in the amount of \$1,500.

**COUNT 21**

**Fifth Call – Violation of the TCPA and TCPA Regulations  
47 U.S.C. §227(c)(5)(B) and 47 C.F.R. §64.1200(d)(2))  
(Against All Defendants)**

90. Plaintiff hereby incorporates, as if fully rewritten herein, all of the foregoing paragraphs.

91. In placing the Fifth Call to deliver a telephone solicitation to Plaintiff's Cellular Telephone, and failing to train the person making the call in

1 the proper maintenance and use of its Do-Not-Call List, Defendants knowingly  
 2 and/or willfully violated 47 U.S.C. §227(c)(5)(B) and 47 C.F.R. §64.1200(d)(2).  
 3

4 92. Because Defendants knowingly and/or willfully violated 47 U.S.C.  
 5 §227(c)(5)(B) and 47 C.F.R. §64.1200(d)(2), Plaintiff is entitled to an award of  
 6 statutory treble damages in the amount of \$1,500.  
 7

## 8 COUNT 22

### 9 **Fifth Call – Violation of the TCPA and TCPA Regulations** 10 **47 C.F.R. §64.1200(d)(4))** 11 **(Against All Defendants)**

12 93. Plaintiff hereby incorporates, as if fully rewritten herein, all  
 13 foregoing paragraphs.  
 14

15 94. Defendants' conduct, in placing the Fifth Call to Plaintiff's Cellular  
 16 Telephone and failing to voluntarily identify by name the business, individual, or  
 17 other entity initiating the call at the beginning of the message, violates 47 C.F.R.  
 18 §64.1200(d)(4) and, therefore, Plaintiff is entitled to an award of statutory  
 19 damages in the minimum amount of \$500 for this violation.  
 20

21 95. Defendant's conduct, in placing the Fifth Call to Plaintiff's Cellular  
 22 Telephone and failing to voluntarily identify by name the business, individual, or  
 23 other entity initiating the call at the beginning of the message, constitutes a  
 24 knowing and/or willful violation of 47 C.F.R. §64.1200(d)(4) and, therefore,  
 25  
 26  
 27  
 28

1 Plaintiff is entitled to an award of statutory treble damages in the amount of  
2 \$1,500 for this violation.  
3

4 **COUNT 23**

5 **Fifth Call - Violation of TCPA Regulation**  
6 **47 U.S.C. §227(c)(5)(B) and 47 C.F.R. §64.1200(d)(6)**  
7 **(Against All Defendants)**

8 96. Plaintiff hereby incorporates, as if fully rewritten herein, all of the  
9 foregoing paragraphs.  
10

11 97. In placing the Fifth Call to deliver a telephone solicitation to  
12 Plaintiff's Cellular Telephone, and failing to maintain a record of Plaintiff's  
13 previous demand that the caller place his name and/or telephone number on its  
14 Do-Not-Call List, Defendants knowingly and/or willfully violated 47 U.S.C.  
15 §227(c)(5)(B) and 47 C.F.R. §64.1200(d)(6).  
16  
17

18 98. Because Defendants knowingly and/or willfully violated 47 U.S.C.  
19 §227(c)(5)(B) and 47 C.F.R. §64.1200(d)(6), Plaintiff is entitled to an award of  
20 statutory treble damages in the amount of \$1,500.  
21

22 **COUNT 24**

23  
24 **Sixth Call - Violation of TCPA Regulation**  
25 **47 U.S.C. §227(b)(1)(A)(iii)**  
26 **(Against All Defendants)**

27 99. Plaintiff hereby incorporates, as if fully rewritten herein, all  
28 foregoing paragraphs.

100. Defendants' conduct, in placing the Sixth Call to Plaintiff's Cellular Telephone with an automatic dialing system to deliver an unsolicited advertisement to Plaintiff without Plaintiff's prior express consent or approval, constitutes a violation of 47 U.S.C. §227(b)(1)(A)(iii) and, therefore, Plaintiff is entitled to an award of statutory damages in the minimum amount of \$500 for this violation.

101. Defendant's conduct, in placing the Sixth Call to Plaintiff's Cellular Telephone with an automated dialing system to deliver an unsolicited advertisement to Plaintiff without Plaintiff's prior express consent or approval, constitutes a knowing and/or willful violation of 47 U.S.C. §227(b)(1)(A)(iii) and, therefore, Plaintiff is entitled to an award of statutory treble damages in the amount of \$1,500 for this violation.

### **COUNT 25**

#### **Sixth Call – Violation of the TCPA and TCPA Regulations 47 U.S.C. §227(c)(5)(B) and 47 C.F.R. §64.1200(d)(3)) (Against All Defendants)**

102. Plaintiff hereby incorporates, as if fully rewritten herein, all of the foregoing paragraphs.

103. In placing the Sixth Call to deliver a telephone solicitation to Plaintiff's Cellular Telephone, and failing to record Plaintiff's name and/or telephone number on its Do-Not-Call List pursuant to Plaintiff's request, Defendants knowingly and/or willfully violated 47 U.S.C. §227(c)(5)(B) and 47 C.F.R. §64.1200(d)(3).

1 104. Because Defendants knowingly and/or willfully violated 47 U.S.C.  
2 §227(c)(5)(B) and 47 C.F.R. §64.1200(d)(3), Plaintiff is entitled to an award of  
3 statutory treble damages in the amount of \$1,500.  
4

5 **COUNT 26**

6  
7 **Sixth Call – Violation of the TCPA and TCPA Regulations**  
8 **47 U.S.C. §227(c)(5)(B) and 47 C.F.R. §64.1200(d)(2))**  
9 **(Against All Defendants)**

10 105. Plaintiff hereby incorporates, as if fully rewritten herein, all of the  
11 foregoing paragraphs.

12 106. In placing the Sixth Call to deliver a telephone solicitation to  
13 Plaintiff's Cellular Telephone, and failing to train the person making the call in  
14 the proper maintenance and use of its Do-Not-Call List, Defendants knowingly  
15 and/or willfully violated 47 U.S.C. §227(c)(5)(B) and 47 C.F.R. §64.1200(d)(2).  
16  
17

18 107. Because Defendants knowingly and/or willfully violated 47 U.S.C.  
19 §227(c)(5)(B) and 47 C.F.R. §64.1200(d)(2), Plaintiff is entitled to an award of  
20 statutory treble damages in the amount of \$1,500.  
21

22 **COUNT 27**

23  
24 **Sixth Call – Violation of the TCPA and TCPA Regulations**  
25 **47 C.F.R. §64.1200(d)(4))**  
26 **(Against All Defendants)**

27 108. Plaintiff hereby incorporates, as if fully rewritten herein, all  
28 foregoing paragraphs.

110. Defendant's conduct, in placing the Sixth Call to Plaintiff's Cellular Telephone and failing to voluntarily identify by name the business, individual, or other entity initiating the call at the beginning of the message, constitutes a knowing and/or willful violation of 47 C.F.R. §64.1200(d)(4) and, therefore, Plaintiff is entitled to an award of statutory treble damages in the amount of \$1,500 for this violation.

**Sixth Call - Violation of TCPA Regulation**  
**47 U.S.C. §227(c)(5)(B) and 47 C.F.R. §64.1200(d)(6)**  
**(Against All Defendants)**

112. In placing the Sixth Call to deliver a telephone solicitation to Plaintiff's Cellular Telephone, and failing to maintain a record of Plaintiff's previous demand that the caller place his name and/or telephone number on its

1 Do-Not-Call List, Defendants knowingly and/or willfully violated 47 U.S.C.  
 2 §227(c)(5)(B) and 47 C.F.R. §64.1200(d)(6).  
 3

4 113. Because Defendants knowingly and/or willfully violated 47 U.S.C.  
 5 §227(c)(5)(B) and 47 C.F.R. §64.1200(d)(6), Plaintiff is entitled to an award of  
 6 statutory treble damages in the amount of \$1,500.  
 7

### 8 **COUNT 29**

#### 9 **Seventh Call - Violation of TCPA Regulation** 10 **47 U.S.C. §227(b)(1)(A)(iii)** 11 **(Against All Defendants)**

12 114. Plaintiff hereby incorporates, as if fully rewritten herein, all  
 13 foregoing paragraphs.

14 115. Defendants' conduct, in placing the Seventh Call to Plaintiff's  
 15 Cellular Telephone with an automatic dialing system to deliver an unsolicited  
 16 advertisement to Plaintiff without Plaintiff's prior express consent or approval,  
 17 constitutes a violation of 47 U.S.C. §227(b)(1)(A)(iii) and, therefore, Plaintiff is  
 18 entitled to an award of statutory damages in the minimum amount of \$500 for this  
 19 violation.  
 20

21 116. Defendant's conduct, in placing the Seventh Call to Plaintiff's  
 22 Cellular Telephone with an automated dialing system to deliver an unsolicited  
 23 advertisement to Plaintiff without Plaintiff's prior express consent or approval,  
 24 constitutes a knowing and/or willful violation of 47 U.S.C. §227(b)(1)(A)(iii)  
 25 and, therefore, Plaintiff is entitled to an award of statutory treble damages in the  
 26 amount of \$1,500 for this violation.  
 27  
 28



**COUNT 30**

**Seventh Call – Violation of the TCPA and TCPA Regulations  
47 U.S.C. §227(c)(5)(B) and 47 C.F.R. §64.1200(d)(3))  
(Against All Defendants)**

117. Plaintiff hereby incorporates, as if fully rewritten herein, all of the foregoing paragraphs.

118. In placing the Seventh Call to deliver a telephone solicitation to Plaintiff's Cellular Telephone, and failing to record Plaintiff's name and/or telephone number on its Do-Not-Call List pursuant to Plaintiff's request, Defendants knowingly and/or willfully violated 47 U.S.C. §227(c)(5)(B) and 47 C.F.R. §64.1200(d)(3).

119. Because Defendants knowingly and/or willfully violated 47 U.S.C. §227(c)(5)(B) and 47 C.F.R. §64.1200(d)(3), Plaintiff is entitled to an award of statutory treble damages in the amount of \$1,500.

**COUNT 31**

**Seventh Call – Violation of the TCPA and TCPA Regulations  
47 U.S.C. §227(c)(5)(B) and 47 C.F.R. §64.1200(d)(2))  
(Against All Defendants)**

120. Plaintiff hereby incorporates, as if fully rewritten herein, all of the foregoing paragraphs.

121. In placing the Seventh Call to deliver a telephone solicitation to Plaintiff's Cellular Telephone, and failing to train the person making the call in

1 the proper maintenance and use of its Do-Not-Call List, Defendants knowingly  
2 and/or willfully violated 47 U.S.C. §227(c)(5)(B) and 47 C.F.R. §64.1200(d)(2).  
3

4 122. Because Defendants knowingly and/or willfully violated 47 U.S.C.  
5 §227(c)(5)(B) and 47 C.F.R. §64.1200(d)(2), Plaintiff is entitled to an award of  
6 statutory treble damages in the amount of \$1,500.  
7

8 **COUNT 32**

9  
10 **Seventh Call – Violation of the TCPA and TCPA Regulations**  
11 **47 C.F.R. §64.1200(d)(4))**  
12 **(Against All Defendants)**

13 123. Plaintiff hereby incorporates, as if fully rewritten herein, all  
14 foregoing paragraphs.

15 124. Defendants' conduct, in placing the Seventh Call to Plaintiff's  
16 Cellular Telephone and failing to voluntarily identify by name the business,  
17 individual, or other entity initiating the call at the beginning of the message,  
18 violates 47 C.F.R. §64.1200(d)(4) and, therefore, Plaintiff is entitled to an award  
19 of statutory damages in the minimum amount of \$500 for this violation.  
20

21 125. Defendant's conduct, in placing the Seventh Call to Plaintiff's  
22 Cellular Telephone and failing to voluntarily identify by name the business,  
23 individual, or other entity initiating the call at the beginning of the message,  
24 constitutes a knowing and/or willful violation of 47 C.F.R. §64.1200(d)(4) and,  
25  
26  
27  
28

1 therefore, Plaintiff is entitled to an award of statutory treble damages in the  
2 amount of \$1,500 for this violation.  
3

4 **COUNT 33**

5 **Seventh Call - Violation of TCPA Regulation**  
6 **47 U.S.C. §227(c)(5)(B) and 47 C.F.R. §64.1200(d)(6)**  
7 **(Against All Defendants)**

8 126. Plaintiff hereby incorporates, as if fully rewritten herein, all of the  
9 foregoing paragraphs.  
10

11 127. In placing the Seventh Call to deliver a telephone solicitation to  
12 Plaintiff's Cellular Telephone, and failing to maintain a record of Plaintiff's  
13 previous demand that the caller place his name and/or telephone number on its  
14 Do-Not-Call List, Defendants knowingly and/or willfully violated 47 U.S.C.  
15 §227(c)(5)(B) and 47 C.F.R. §64.1200(d)(6).  
16  
17

18 128. Because Defendants knowingly and/or willfully violated 47 U.S.C.  
19 §227(c)(5)(B) and 47 C.F.R. §64.1200(d)(6), Plaintiff is entitled to an award of  
20 statutory treble damages in the amount of \$1,500.  
21

22 **COUNT 34**

23 **Eighth Call - Violation of TCPA Regulation**  
24 **47 U.S.C. §227(b)(1)(A)(iii)**  
25 **(Against All Defendants)**

26 129. Plaintiff hereby incorporates, as if fully rewritten herein, all  
27 foregoing paragraphs.  
28

130. Defendants' conduct, in placing the Eighth Call to Plaintiff's Cellular Telephone with an automatic dialing system to deliver an unsolicited advertisement to Plaintiff without Plaintiff's prior express consent or approval, constitutes a violation of 47 U.S.C. §227(b)(1)(A)(iii) and, therefore, Plaintiff is entitled to an award of statutory damages in the minimum amount of \$500 for this violation.

131. Defendant's conduct, in placing the Eighth Call to Plaintiff's Cellular Telephone with an automated dialing system to deliver an unsolicited advertisement to Plaintiff without Plaintiff's prior express consent or approval, constitutes a knowing and/or willful violation of 47 U.S.C. §227(b)(1)(A)(iii) and, therefore, Plaintiff is entitled to an award of statutory treble damages in the amount of \$1,500 for this violation.

### **COUNT 35**

#### **Eighth Call – Violation of the TCPA and TCPA Regulations 47 U.S.C. §227(c)(5)(B) and 47 C.F.R. §64.1200(d)(3)) (Against All Defendants)**

132. Plaintiff hereby incorporates, as if fully rewritten herein, all of the foregoing paragraphs.

133. In placing the Eighth Call to deliver a telephone solicitation to Plaintiff's Cellular Telephone, and failing to record Plaintiff's name and/or telephone number on its Do-Not-Call List pursuant to Plaintiff's request, Defendants knowingly and/or willfully violated 47 U.S.C. §227(c)(5)(B) and 47 C.F.R. §64.1200(d)(3).

1 144. Because Defendants knowingly and/or willfully violated 47 U.S.C.  
2 §227(c)(5)(B) and 47 C.F.R. §64.1200(d)(3), Plaintiff is entitled to an award of  
3 statutory treble damages in the amount of \$1,500.  
4

5 **COUNT 36**

6  
7 **Eighth Call – Violation of the TCPA and TCPA Regulations**  
8 **47 U.S.C. §227(c)(5)(B) and 47 C.F.R. §64.1200(d)(2))**  
9 **(Against All Defendants)**

10 145. Plaintiff hereby incorporates, as if fully rewritten herein, all of the  
11 foregoing paragraphs.

12 146. In placing the Eighth Call to deliver a telephone solicitation to  
13 Plaintiff's Cellular Telephone, and failing to train the person making the call in  
14 the proper maintenance and use of its Do-Not-Call List, Defendants knowingly  
15 and/or willfully violated 47 U.S.C. §227(c)(5)(B) and 47 C.F.R. §64.1200(d)(2).  
16  
17

18 147. Because Defendants knowingly and/or willfully violated 47 U.S.C.  
19 §227(c)(5)(B) and 47 C.F.R. §64.1200(d)(2), Plaintiff is entitled to an award of  
20 statutory treble damages in the amount of \$1,500.  
21

22 **COUNT 37**

23  
24 **Eighth Call – Violation of the TCPA and TCPA Regulations**  
25 **47 C.F.R. §64.1200(d)(4))**  
26 **(Against All Defendants)**

27 148. Plaintiff hereby incorporates, as if fully rewritten herein, all  
28 foregoing paragraphs.

1           149. Defendants' conduct, in placing the Eighth Call to Plaintiff's  
2 Cellular Telephone and failing to voluntarily identify by name the business,  
3 individual, or other entity initiating the call at the beginning of the message,  
4 violates 47 C.F.R. §64.1200(d)(4) and, therefore, Plaintiff is entitled to an award  
5 of statutory damages in the minimum amount of \$500 for this violation.  
6  
7

8           150. Defendant's conduct, in placing the Eighth Call to Plaintiff's  
9 Cellular Telephone and failing to voluntarily identify by name the business,  
10 individual, or other entity initiating the call at the beginning of the message,  
11 constitutes a knowing and/or willful violation of 47 C.F.R. §64.1200(d)(4) and,  
12 therefore, Plaintiff is entitled to an award of statutory treble damages in the  
13 amount of \$1,500 for this violation.  
14  
15

16  
17                                   **COUNT 38**

18                           **Eighth Call - Violation of TCPA Regulation**  
19                   **47 U.S.C. §227(c)(5)(B) and 47 C.F.R. §64.1200(d)(6)**  
20                           **(Against All Defendants)**

21           151. Plaintiff hereby incorporates, as if fully rewritten herein, all of the  
22 foregoing paragraphs.  
23

24           152. In placing the Eighth Call to deliver a telephone solicitation to  
25 Plaintiff's Cellular Telephone, and failing to maintain a record of Plaintiff's  
26 previous demand that the caller place his name and/or telephone number on its  
27  
28

1 Do-Not-Call List, Defendants knowingly and/or willfully violated 47 U.S.C.  
 2 §227(c)(5)(B) and 47 C.F.R. §64.1200(d)(6).  
 3

4 153. Because Defendants knowingly and/or willfully violated 47 U.S.C.  
 5 §227(c)(5)(B) and 47 C.F.R. §64.1200(d)(6), Plaintiff is entitled to an award of  
 6 statutory treble damages in the amount of \$1,500.  
 7

### 8 **COUNT 39**

#### 9 **Ninth Call - Violation of TCPA Regulation** 10 **47 U.S.C. §227(b)(1)(A)(iii)** 11 **(Against All Defendants)**

12 154. Plaintiff hereby incorporates, as if fully rewritten herein, all  
 13 foregoing paragraphs.

14 155. Defendants' conduct, in placing the Ninth Call to Plaintiff's Cellular  
 15 Telephone with an automatic dialing system to deliver an unsolicited  
 16 advertisement to Plaintiff without Plaintiff's prior express consent or approval,  
 17 constitutes a violation of 47 U.S.C. §227(b)(1)(A)(iii) and, therefore, Plaintiff is  
 18 entitled to an award of statutory damages in the minimum amount of \$500 for this  
 19 violation.  
 20

21 156. Defendant's conduct, in placing the Ninth Call to Plaintiff's Cellular  
 22 Telephone with an automated dialing system to deliver an unsolicited  
 23 advertisement to Plaintiff without Plaintiff's prior express consent or approval,  
 24 constitutes a knowing and/or willful violation of 47 U.S.C. §227(b)(1)(A)(iii)  
 25 and, therefore, Plaintiff is entitled to an award of statutory treble damages in the  
 26 amount of \$1,500 for this violation.  
 27  
 28

**COUNT 40**

**Ninth Call – Violation of the TCPA and TCPA Regulations  
47 U.S.C. §227(c)(5)(B) and 47 C.F.R. §64.1200(d)(3))  
(Against All Defendants)**

157. Plaintiff hereby incorporates, as if fully rewritten herein, all of the foregoing paragraphs.

158. In placing the Ninth Call to deliver a telephone solicitation to Plaintiff's Cellular Telephone, and failing to record Plaintiff's name and/or telephone number on its Do-Not-Call List pursuant to Plaintiff's request, Defendants knowingly and/or willfully violated 47 U.S.C. §227(c)(5)(B) and 47 C.F.R. §64.1200(d)(3).

159. Because Defendants knowingly and/or willfully violated 47 U.S.C. §227(c)(5)(B) and 47 C.F.R. §64.1200(d)(3), Plaintiff is entitled to an award of statutory treble damages in the amount of \$1,500.

**COUNT 41**

**Ninth Call – Violation of the TCPA and TCPA Regulations  
47 U.S.C. §227(c)(5)(B) and 47 C.F.R. §64.1200(d)(2))  
(Against All Defendants)**

160. Plaintiff hereby incorporates, as if fully rewritten herein, all of the foregoing paragraphs.

161. In placing the Ninth Call to deliver a telephone solicitation to Plaintiff's Cellular Telephone, and failing to train the person making the call in



1 the proper maintenance and use of its Do-Not-Call List, Defendants knowingly  
 2 and/or willfully violated 47 U.S.C. §227(c)(5)(B) and 47 C.F.R. §64.1200(d)(2).  
 3

4 162. Because Defendants knowingly and/or willfully violated 47 U.S.C.  
 5 §227(c)(5)(B) and 47 C.F.R. §64.1200(d)(2), Plaintiff is entitled to an award of  
 6 statutory treble damages in the amount of \$1,500.  
 7

### 8 **COUNT 42**

#### 9 **Ninth Call – Violation of the TCPA and TCPA Regulations** 10 **47 C.F.R. §64.1200(d)(4)** 11 **(Against All Defendants)**

12 163. Plaintiff hereby incorporates, as if fully rewritten herein, all  
 13 foregoing paragraphs.  
 14

15 164. Defendants' conduct, in placing the Ninth Call to Plaintiff's Cellular  
 16 Telephone and failing to voluntarily identify by name the business, individual, or  
 17 other entity initiating the call at the beginning of the message, violates 47 C.F.R.  
 18 §64.1200(d)(4) and, therefore, Plaintiff is entitled to an award of statutory  
 19 damages in the minimum amount of \$500 for this violation.  
 20  
 21

22 165. Defendant's conduct, in placing the Ninth Call to Plaintiff's Cellular  
 23 Telephone and failing to voluntarily identify by name the business, individual, or  
 24 other entity initiating the call at the beginning of the message, constitutes a  
 25 knowing and/or willful violation of 47 C.F.R. §64.1200(d)(4) and, therefore,  
 26  
 27  
 28

1 Plaintiff is entitled to an award of statutory treble damages in the amount of  
2 \$1,500 for this violation.  
3

4 **COUNT 43**

5 **Ninth Call - Violation of TCPA Regulation**  
6 **47 U.S.C. §227(c)(5)(B) and 47 C.F.R. §64.1200(d)(6)**  
7 **(Against All Defendants)**

8 166. Plaintiff hereby incorporates, as if fully rewritten herein, all of the  
9 foregoing paragraphs.  
10

11 167. In placing the Ninth Call to deliver a telephone solicitation to  
12 Plaintiff's Cellular Telephone, and failing to maintain a record of Plaintiff's  
13 previous demand that the caller place his name and/or telephone number on its  
14 Do-Not-Call List, Defendants knowingly and/or willfully violated 47 U.S.C.  
15 §227(c)(5)(B) and 47 C.F.R. §64.1200(d)(6).  
16  
17

18 168. Because Defendants knowingly and/or willfully violated 47 U.S.C.  
19 §227(c)(5)(B) and 47 C.F.R. §64.1200(d)(6), Plaintiff is entitled to an award of  
20 statutory treble damages in the amount of \$1,500.  
21

22 **COUNT 44**

23 **Tenth Call - Violation of TCPA Regulation**  
24 **47 U.S.C. §227(b)(1)(A)(iii)**  
25 **(Against All Defendants)**

26 169. Plaintiff hereby incorporates, as if fully rewritten herein, all  
27 foregoing paragraphs.  
28

170. Defendants' conduct, in placing the Tenth Call to Plaintiff's Cellular Telephone with an automatic dialing system to deliver an unsolicited advertisement to Plaintiff without Plaintiff's prior express consent or approval, constitutes a violation of 47 U.S.C. §227(b)(1)(A)(iii) and, therefore, Plaintiff is entitled to an award of statutory damages in the minimum amount of \$500 for this violation.

171. Defendant's conduct, in placing the Tenth Call to Plaintiff's Cellular Telephone with an automated dialing system to deliver an unsolicited advertisement to Plaintiff without Plaintiff's prior express consent or approval, constitutes a knowing and/or willful violation of 47 U.S.C. §227(b)(1)(A)(iii) and, therefore, Plaintiff is entitled to an award of statutory treble damages in the amount of \$1,500 for this violation.

#### **COUNT 45**

#### **Tenth Call – Violation of the TCPA and TCPA Regulations 47 U.S.C. §227(c)(5)(B) and 47 C.F.R. §64.1200(d)(3)) (Against All Defendants)**

172. Plaintiff hereby incorporates, as if fully rewritten herein, all of the foregoing paragraphs.

173. In placing the Tenth Call to deliver a telephone solicitation to Plaintiff's Cellular Telephone, and failing to record Plaintiff's name and/or telephone number on its Do-Not-Call List pursuant to Plaintiff's request, Defendants knowingly and/or willfully violated 47 U.S.C. §227(c)(5)(B) and 47 C.F.R. §64.1200(d)(3).

1 174. Because Defendants knowingly and/or willfully violated 47 U.S.C.  
2 §227(c)(5)(B) and 47 C.F.R. §64.1200(d)(3), Plaintiff is entitled to an award of  
3 statutory treble damages in the amount of \$1,500.  
4

5 **COUNT 46**

6  
7 **Tenth Call – Violation of the TCPA and TCPA Regulations**  
8 **47 U.S.C. §227(c)(5)(B) and 47 C.F.R. §64.1200(d)(2))**  
9 **(Against All Defendants)**

10 175. Plaintiff hereby incorporates, as if fully rewritten herein, all of the  
11 foregoing paragraphs.

12 176. In placing the Tenth Call to deliver a telephone solicitation to  
13 Plaintiff's Cellular Telephone, and failing to train the person making the call in  
14 the proper maintenance and use of its Do-Not-Call List, Defendants knowingly  
15 and/or willfully violated 47 U.S.C. §227(c)(5)(B) and 47 C.F.R. §64.1200(d)(2).  
16  
17

18 177. Because Defendants knowingly and/or willfully violated 47 U.S.C.  
19 §227(c)(5)(B) and 47 C.F.R. §64.1200(d)(2), Plaintiff is entitled to an award of  
20 statutory treble damages in the amount of \$1,500.  
21

22 **COUNT 47**

23  
24 **Tenth Call – Violation of the TCPA and TCPA Regulations**  
25 **47 C.F.R. §64.1200(d)(4)**  
26 **(Against All Defendants)**

27 178. Plaintiff hereby incorporates, as if fully rewritten herein, all  
28 foregoing paragraphs.

1           179. Defendants' conduct, in placing the Tenth Call to Plaintiff's Cellular  
2 Telephone and failing to voluntarily identify by name the business, individual, or  
3 other entity initiating the call at the beginning of the message, violates 47 C.F.R.  
4 §64.1200(d)(4) and, therefore, Plaintiff is entitled to an award of statutory  
5 damages in the minimum amount of \$500 for this violation.  
6

7  
8           180. Defendant's conduct, in placing the Tenth Call to Plaintiff's Cellular  
9 Telephone and failing to voluntarily identify by name the business, individual, or  
10 other entity initiating the call at the beginning of the message, constitutes a  
11 knowing and/or willful violation of 47 C.F.R. §64.1200(d)(4) and, therefore,  
12 Plaintiff is entitled to an award of statutory treble damages in the amount of  
13 \$1,500 for this violation.  
14  
15

16  
17                                   **COUNT 48**

18                           **Tenth Call - Violation of TCPA Regulation**  
19                   **47 U.S.C. §227(c)(5)(B) and 47 C.F.R. §64.1200(d)(6)**  
20                           **(Against All Defendants)**

21           181. Plaintiff hereby incorporates, as if fully rewritten herein, all of the  
22 foregoing paragraphs.  
23

24           182. In placing the Tenth Call to deliver a telephone solicitation to  
25 Plaintiff's Cellular Telephone, and failing to maintain a record of Plaintiff's  
26 previous demand that the caller place his name and/or telephone number on its  
27  
28

1 Do-Not-Call List, Defendants knowingly and/or willfully violated 47 U.S.C.  
2 §227(c)(5)(B) and 47 C.F.R. §64.1200(d)(6).  
3

4 183. Because Defendants knowingly and/or willfully violated 47 U.S.C.  
5 §227(c)(5)(B) and 47 C.F.R. §64.1200(d)(6), Plaintiff is entitled to an award of  
6 statutory treble damages in the amount of \$1,500.  
7

8 **COUNT 49**

9  
10 **Eleventh Call - Violation of TCPA Regulation**  
11 **47 U.S.C. §227(b)(1)(A)(iii)**  
**(Against All Defendants)**

12 184. Plaintiff hereby incorporates, as if fully rewritten herein, all  
13 foregoing paragraphs.  
14

15 185. Defendants' conduct, in placing the Eleventh Call to Plaintiff's  
16 Cellular Telephone with an automatic dialing system to deliver an unsolicited  
17 advertisement to Plaintiff without Plaintiff's prior express consent or approval,  
18 constitutes a violation of 47 U.S.C. §227(b)(1)(A)(iii) and, therefore, Plaintiff is  
19 entitled to an award of statutory damages in the minimum amount of \$500 for this  
20 violation.  
21

22 186. Defendant's conduct, in placing the Eleventh Call to Plaintiff's  
23 Cellular Telephone with an automated dialing system to deliver an unsolicited  
24 advertisement to Plaintiff without Plaintiff's prior express consent or approval,  
25 constitutes a knowing and/or willful violation of 47 U.S.C. §227(b)(1)(A)(iii)  
26 and, therefore, Plaintiff is entitled to an award of statutory treble damages in the  
27 amount of \$1,500 for this violation.  
28

**COUNT 50**

**Eleventh Call – Violation of the TCPA and TCPA Regulations  
47 U.S.C. §227(c)(5)(B) and 47 C.F.R. §64.1200(d)(3))  
(Against All Defendants)**

187. Plaintiff hereby incorporates, as if fully rewritten herein, all of the foregoing paragraphs.

188. In placing the Eleventh Call to deliver a telephone solicitation to Plaintiff's Cellular Telephone, and failing to record Plaintiff's name and/or telephone number on its Do-Not-Call List pursuant to Plaintiff's request, Defendants knowingly and/or willfully violated 47 U.S.C. §227(c)(5)(B) and 47 C.F.R. §64.1200(d)(3).

189. Because Defendants knowingly and/or willfully violated 47 U.S.C. §227(c)(5)(B) and 47 C.F.R. §64.1200(d)(3), Plaintiff is entitled to an award of statutory treble damages in the amount of \$1,500.

**COUNT 51**

**Eleventh Call – Violation of the TCPA and TCPA Regulations  
47 U.S.C. §227(c)(5)(B) and 47 C.F.R. §64.1200(d)(2))  
(Against All Defendants)**

190. Plaintiff hereby incorporates, as if fully rewritten herein, all of the foregoing paragraphs.

191. In placing the Eleventh Call to deliver a telephone solicitation to Plaintiff's Cellular Telephone, and failing to train the person making the call in

1 the proper maintenance and use of its Do-Not-Call List, Defendants knowingly  
 2 and/or willfully violated 47 U.S.C. §227(c)(5)(B) and 47 C.F.R. §64.1200(d)(2).  
 3

4 192. Because Defendants knowingly and/or willfully violated 47 U.S.C.  
 5 §227(c)(5)(B) and 47 C.F.R. §64.1200(d)(2), Plaintiff is entitled to an award of  
 6 statutory treble damages in the amount of \$1,500.  
 7

### 8 **COUNT 52**

#### 9 **Eleventh Call – Violation of the TCPA and TCPA Regulations** 10 **47 C.F.R. §64.1200(d)(4))** 11 **(Against All Defendants)**

12 193. Plaintiff hereby incorporates, as if fully rewritten herein, all  
 13 foregoing paragraphs.  
 14

15 194. Defendants' conduct, in placing the Eleventh Call to Plaintiff's  
 16 Cellular Telephone and failing to voluntarily identify by name the business,  
 17 individual, or other entity initiating the call at the beginning of the message,  
 18 violates 47 C.F.R. §64.1200(d)(4) and, therefore, Plaintiff is entitled to an award  
 19 of statutory damages in the minimum amount of \$500 for this violation.  
 20  
 21

22 195. Defendant's conduct, in placing the Eleventh Call to Plaintiff's  
 23 Cellular Telephone and failing to voluntarily identify by name the business,  
 24 individual, or other entity initiating the call at the beginning of the message,  
 25 constitutes a knowing and/or willful violation of 47 C.F.R. §64.1200(d)(4) and,  
 26  
 27  
 28



1 therefore, Plaintiff is entitled to an award of statutory treble damages in the  
2 amount of \$1,500 for this violation.  
3

4 **COUNT 53**

5 **Eleventh Call - Violation of TCPA Regulation**  
6 **47 U.S.C. §227(c)(5)(B) and 47 C.F.R. §64.1200(d)(6)**  
7 **(Against All Defendants)**

8 196. Plaintiff hereby incorporates, as if fully rewritten herein, all of the  
9 foregoing paragraphs.  
10

11 197. In placing the Eleventh Call to deliver a telephone solicitation to  
12 Plaintiff's Cellular Telephone, and failing to maintain a record of Plaintiff's  
13 previous demand that the caller place his name and/or telephone number on its  
14 Do-Not-Call List, Defendants knowingly and/or willfully violated 47 U.S.C.  
15 §227(c)(5)(B) and 47 C.F.R. §64.1200(d)(6).  
16  
17

18 198. Because Defendants knowingly and/or willfully violated 47 U.S.C.  
19 §227(c)(5)(B) and 47 C.F.R. §64.1200(d)(6), Plaintiff is entitled to an award of  
20 statutory treble damages in the amount of \$1,500.  
21

22 **COUNT 54**

23 **Twelfth Call - Violation of TCPA Regulation**  
24 **47 U.S.C. §227(b)(1)(A)(iii)**  
25 **(Against All Defendants)**

26 199. Plaintiff hereby incorporates, as if fully rewritten herein, all  
27 foregoing paragraphs.  
28

200. Defendants' conduct, in placing the Twelfth Call to Plaintiff's Cellular Telephone with an automatic dialing system to deliver an unsolicited advertisement to Plaintiff without Plaintiff's prior express consent or approval, constitutes a violation of 47 U.S.C. §227(b)(1)(A)(iii) and, therefore, Plaintiff is entitled to an award of statutory damages in the minimum amount of \$500 for this violation.

201. Defendant's conduct, in placing the Twelfth Call to Plaintiff's Cellular Telephone with an automated dialing system to deliver an unsolicited advertisement to Plaintiff without Plaintiff's prior express consent or approval, constitutes a knowing and/or willful violation of 47 U.S.C. §227(b)(1)(A)(iii) and, therefore, Plaintiff is entitled to an award of statutory treble damages in the amount of \$1,500 for this violation.

### **COUNT 55**

#### **Twelfth Call – Violation of the TCPA and TCPA Regulations 47 U.S.C. §227(c)(5)(B) and 47 C.F.R. §64.1200(d)(3)) (Against All Defendants)**

202. Plaintiff hereby incorporates, as if fully rewritten herein, all of the foregoing paragraphs.

203. In placing the Twelfth Call to deliver a telephone solicitation to Plaintiff's Cellular Telephone, and failing to record Plaintiff's name and/or telephone number on its Do-Not-Call List pursuant to Plaintiff's request, Defendants knowingly and/or willfully violated 47 U.S.C. §227(c)(5)(B) and 47 C.F.R. §64.1200(d)(3).

204. Because Defendants knowingly and/or willfully violated 47 U.S.C. §227(c)(5)(B) and 47 C.F.R. §64.1200(d)(3), Plaintiff is entitled to an award of statutory treble damages in the amount of \$1,500.

**COUNT 56**

**Twelfth Call – Violation of the TCPA and TCPA Regulations  
47 U.S.C. §227(c)(5)(B) and 47 C.F.R. §64.1200(d)(2))  
(Against All Defendants)**

205. Plaintiff hereby incorporates, as if fully rewritten herein, all of the foregoing paragraphs.

206. In placing the Twelfth Call to deliver a telephone solicitation to Plaintiff's Cellular Telephone, and failing to train the person making the call in the proper maintenance and use of its Do-Not-Call List, Defendants knowingly and/or willfully violated 47 U.S.C. §227(c)(5)(B) and 47 C.F.R. §64.1200(d)(2).

207. Because Defendants knowingly and/or willfully violated 47 U.S.C. §227(c)(5)(B) and 47 C.F.R. §64.1200(d)(2), Plaintiff is entitled to an award of statutory treble damages in the amount of \$1,500.

## COUNT 57

**Twelfth Call – Violation of the TCPA and TCPA Regulations  
47 C.F.R. §64.1200(d)(4)  
(Against All Defendants)**

208. Plaintiff hereby incorporates, as if fully rewritten herein, all foregoing paragraphs.



1 Do-Not-Call List, Defendants knowingly and/or willfully violated 47 U.S.C.  
2 §227(c)(5)(B) and 47 C.F.R. §64.1200(d)(6).  
3

4 213. Because Defendants knowingly and/or willfully violated 47 U.S.C.  
5 §227(c)(5)(B) and 47 C.F.R. §64.1200(d)(6), Plaintiff is entitled to an award of  
6 statutory treble damages in the amount of \$1,500.  
7

8 **COUNT 59**

9 **Thirteenth Call - Violation of TCPA Regulation**  
10 **47 U.S.C. §227(b)(1)(A)(iii)**  
11 **(Against All Defendants)**

12 214. Plaintiff hereby incorporates, as if fully rewritten herein, all  
13 foregoing paragraphs.

14 215. Defendants' conduct, in placing the Thirteenth Call to Plaintiff's  
15 Cellular Telephone with an automatic dialing system to deliver an unsolicited  
16 advertisement to Plaintiff without Plaintiff's prior express consent or approval,  
17 constitutes a violation of 47 U.S.C. §227(b)(1)(A)(iii) and, therefore, Plaintiff is  
18 entitled to an award of statutory damages in the minimum amount of \$500 for this  
19 violation.

20 216. Defendant's conduct, in placing the Thirteenth Call to Plaintiff's  
21 Cellular Telephone with an automated dialing system to deliver an unsolicited  
22 advertisement to Plaintiff without Plaintiff's prior express consent or approval,  
23 constitutes a knowing and/or willful violation of 47 U.S.C. §227(b)(1)(A)(iii)  
24 and, therefore, Plaintiff is entitled to an award of statutory treble damages in the  
25 amount of \$1,500 for this violation.  
26  
27  
28

**COUNT 60**

**Thirteenth Call – Violation of the TCPA and TCPA Regulations  
47 U.S.C. §227(c)(5)(B) and 47 C.F.R. §64.1200(d)(3))  
(Against All Defendants)**

217. Plaintiff hereby incorporates, as if fully rewritten herein, all of the foregoing paragraphs.

218. In placing the Thirteenth Call to deliver a telephone solicitation to Plaintiff's Cellular Telephone, and failing to record Plaintiff's name and/or telephone number on its Do-Not-Call List pursuant to Plaintiff's request, Defendants knowingly and/or willfully violated 47 U.S.C. §227(c)(5)(B) and 47 C.F.R. §64.1200(d)(3).

219. Because Defendants knowingly and/or willfully violated 47 U.S.C. §227(c)(5)(B) and 47 C.F.R. §64.1200(d)(3), Plaintiff is entitled to an award of statutory treble damages in the amount of \$1,500.

**COUNT 61**

**Thirteenth Call – Violation of the TCPA and TCPA Regulations  
47 U.S.C. §227(c)(5)(B) and 47 C.F.R. §64.1200(d)(2))  
(Against All Defendants)**

220. Plaintiff hereby incorporates, as if fully rewritten herein, all of the foregoing paragraphs.

221. In placing the Thirteenth Call to deliver a telephone solicitation to Plaintiff's Cellular Telephone, and failing to train the person making the call in

1 the proper maintenance and use of its Do-Not-Call List, Defendants knowingly  
 2 and/or willfully violated 47 U.S.C. §227(c)(5)(B) and 47 C.F.R. §64.1200(d)(2).  
 3

4 222. Because Defendants knowingly and/or willfully violated 47 U.S.C.  
 5 §227(c)(5)(B) and 47 C.F.R. §64.1200(d)(2), Plaintiff is entitled to an award of  
 6 statutory treble damages in the amount of \$1,500.  
 7

### 8 **COUNT 62**

#### 9 **Thirteenth Call – Violation of the TCPA and TCPA Regulations** 10 **47 C.F.R. §64.1200(d)(4)** 11 **(Against All Defendants)**

12 223. Plaintiff hereby incorporates, as if fully rewritten herein, all  
 13 foregoing paragraphs.  
 14

15 224. Defendants' conduct, in placing the Thirteenth Call to Plaintiff's  
 16 Cellular Telephone and failing to voluntarily identify by name the business,  
 17 individual, or other entity initiating the call at the beginning of the message,  
 18 violates 47 C.F.R. §64.1200(d)(4) and, therefore, Plaintiff is entitled to an award  
 19 of statutory damages in the minimum amount of \$500 for this violation.  
 20  
 21

22 225. Defendant's conduct, in placing the Thirteenth Call to Plaintiff's  
 23 Cellular Telephone and failing to voluntarily identify by name the business,  
 24 individual, or other entity initiating the call at the beginning of the message,  
 25 constitutes a knowing and/or willful violation of 47 C.F.R. §64.1200(d)(4) and,  
 26  
 27  
 28

1 therefore, Plaintiff is entitled to an award of statutory treble damages in the  
2 amount of \$1,500 for this violation.  
3

4 **COUNT 63**

5 **Thirteenth Call - Violation of TCPA Regulation**  
6 **47 U.S.C. §227(c)(5)(B) and 47 C.F.R. §64.1200(d)(6)**  
7 **(Against All Defendants)**

8 226. Plaintiff hereby incorporates, as if fully rewritten herein, all of the  
9 foregoing paragraphs.  
10

11 227. In placing the Thirteenth Call to deliver a telephone solicitation to  
12 Plaintiff's Cellular Telephone, and failing to maintain a record of Plaintiff's  
13 previous demand that the caller place his name and/or telephone number on its  
14 Do-Not-Call List, Defendants knowingly and/or willfully violated 47 U.S.C.  
15 §227(c)(5)(B) and 47 C.F.R. §64.1200(d)(6).  
16  
17

18 228. Because Defendants knowingly and/or willfully violated 47 U.S.C.  
19 §227(c)(5)(B) and 47 C.F.R. §64.1200(d)(6), Plaintiff is entitled to an award of  
20 statutory treble damages in the amount of \$1,500.  
21

22 **PRAYER FOR RELIEF**

23  
24 WHEREFORE, Plaintiff hereby prays for the following relief on the  
25 foregoing claims against Defendants, jointly and severally:  
26

27 A. For a declaratory judgment that Defendants' conduct violated the  
28 TCPA;



1           B.     For an award of statutory damages in Plaintiff's favor and against  
2 Defendants in the amount of \$500 for each of Defendants' violations of 47 U.S.C.  
3 §227(b) and/or the regulations promulgated thereunder, pursuant to 47 U.S.C.  
4 §227(b)(3)(B);

5           C.     For an award of statutory damages in Plaintiff's favor and against  
6 Defendants in the amount of \$1500 for each of Defendants' knowing and/or  
7 willful violations of 47 U.S.C. §227(b) and/or the regulations promulgated  
8 thereunder, pursuant to 47 U.S.C. §227(b)(3)(C);

9           D.     For an award of statutory damages in Plaintiff's favor and against  
10 Defendants in the amount of \$500 for each of Defendants' violations of 47 U.S.C.  
11 §227(c) and/or the regulations promulgated thereunder, pursuant to 47 U.S.C.  
12 §227(c)(5)(B);

13           E.     For an award of statutory damages in Plaintiff's favor and against  
14 Defendants in the amount of \$1500 for each of Defendants' knowing and/or  
15 willful violations of 47 U.S.C. §227(c) and/or the regulations promulgated  
16 thereunder, pursuant to 47 U.S.C. §227(c)(5)(C);

17           F.     For actual damages;

18           G.     For punitive damages in an amount sufficient to discourage such  
19 future actions by Defendants and others, and in the Court's discretion;

20           H.     For attorneys' fees and costs; and


21           I.     For such other and further relief as the Court may deem just and  
22 proper.  
23  
24  
25  
26  
27  
28

1                   **PLAINTIFF HEREBY REQUESTS A TRIAL BY JURY**

2                   PLEASE TAKE NOTICE that Plaintiff hereby demands a trial by jury on  
3 all of his claims against Defendants.  
4

5  
6  
7  
8 Dated: September 19, 2013

**LAW OFFICE OF ERIC SAPIR**

9  
10 By:   
11 Eric Sapir  
12 Attorney for Plaintiff  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

NOTICE OF ASSIGNMENT TO UNITED STATES JUDGES

This case has been assigned to District Judge George H. Wu and the assigned Magistrate Judge is Alicia G. Rosenberg.

The case number on all documents filed with the Court should read as follows:

2:13-CV-6927-GW (AGR<sub>x</sub>)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge.

Clerk, U. S. District Court

September 19, 2013  
Date

By MDAVIS  
Deputy Clerk

---

---

NOTICE TO COUNSEL

*A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).*

**Subsequent documents must be filed at the following location:**

☒ Western Division  
312 N. Spring Street, G-8  
Los Angeles, CA 90012

☐ Southern Division  
411 West Fourth St., Ste 1053  
Santa Ana, CA 92701

☐ Eastern Division  
3470 Twelfth Street, Room 134  
Riverside, CA 92501

**Failure to file at the proper location will result in your documents being returned to you.**

Eric Sapir (SBN: 282740)  
 LAW OFFICE OF ERIC SAPIR  
 15760 Ventura Blvd., Suite #700  
 Encino, CA 91436  
 Telephone: 818-570-3556  
 Facsimile: 818-855-8063

UNITED STATES DISTRICT COURT  
 CENTRAL DISTRICT OF CALIFORNIA

CARLOS BETANCOURT, *an individual,*

CASE NUMBER

PLAINTIFF(S)

**CV 13-06927** *GW(AGG)*

v.

~~CASABLANCA EXPRESS, and CASABLANCA  
 EXPRESS NEVADA LLC,~~

*Casablanca Express, a California corporation, and  
 Casablanca Express Nevada LLC, a Nevada limited  
 liability company,*

DEFENDANT(S).

SUMMONS

TO: DEFENDANT(S):

A lawsuit has been filed against you.

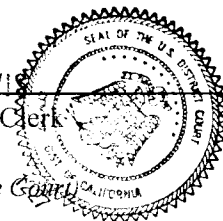
Within 21 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached ☒ complaint ☐ amended complaint ☐ counterclaim ☐ cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, Eric Sapir, whose address is 15760 Ventura Blvd., Suite #700, Encino, CA 91436. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Clerk, U.S. District Court

Dated: 09/19/2013

By: MARILYN DAVIS  
 Deputy Clerk

(Seal of the Court)



[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3)].

**I. (a) PLAINTIFFS** ( Check box if you are representing yourself ☐ )

Carlos Betancourt  
2373 Marilyn St  
Simi Valley, CA 93065

**DEFENDANTS** ( Check box if you are representing yourself ☐ )

Casablanca Express  
6300 Canoga Ave. Suite 550  
Woodland Hills, CA 91367

CASABLANCA EXPRESS NEVADA LLC  
6623 S. Las Vegas Blvd., Suite 220  
Las Vegas, NV 89119.

(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.)

LAW OFFICE OF ERIC SAPIR  
15760 Ventura Blvd., Suite #700  
Encino, CA 91436  
818-570-3556

(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.)

**II. BASIS OF JURISDICTION** (Place an X in one box only.)

- ☐ 1. U.S. Government Plaintiff  
☐ 2. U.S. Government Defendant  
☒ 3. Federal Question (U.S. Government Not a Party)  
☐ 4. Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES**-For Diversity Cases Only  
(Place an X in one box for plaintiff and one for defendant)

- |   |                            |                            |   |                            |                            |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
|   | <b>PTF</b>                 | <b>DEF</b>                 |   | <b>PTF</b>                 | <b>DEF</b>                 |
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in this State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

**IV. ORIGIN** (Place an X in one box only.)

- ☒ 1. Original Proceeding  
☐ 2. Removed from State Court  
☐ 3. Remanded from Appellate Court  
☐ 4. Reinstated or Reopened  
☐ 5. Transferred from Another District (Specify)  
☐ 6. Multi-District Litigation

**V. REQUESTED IN COMPLAINT: JURY DEMAND:** ☒ Yes ☐ No (Check "Yes" only if demanded in complaint.)

**CLASS ACTION under F.R.Cv.P. 23:** ☐ Yes ☒ No **MONEY DEMANDED IN COMPLAINT: \$** \_\_\_\_\_

**VI. CAUSE OF ACTION** (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)  
47 U.S.C. § 227- Violation of the Telephone Consumer Protection Act**VII. NATURE OF SUIT** (Place an X in one box only.)

OTHER STATUTES	CONTRACT	REAL PROPERTY CONT.	IMMIGRATION	PRISONER PETITIONS	PROPERTY RIGHTS
<input type="checkbox"/> 375 False Claims Act	<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 462 Naturalization Application	<b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee	<input type="checkbox"/> 820 Copyrights
<input type="checkbox"/> 400 State Reapportionment	<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 830 Patent
<input type="checkbox"/> 410 Antitrust	<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 290 All Other Real Property	<b>TORTS</b>	<input type="checkbox"/> 530 General	<input type="checkbox"/> 840 Trademark
<input type="checkbox"/> 430 Banks and Banking	<input type="checkbox"/> 140 Negotiable Instrument	<b>TORTS</b>	<b>PERSONAL PROPERTY</b>	<input type="checkbox"/> 535 Death Penalty	<b>SOCIAL SECURITY</b>
<input type="checkbox"/> 450 Commerce/ICC Rates/Etc.	<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<b>PERSONAL INJURY</b>	<input type="checkbox"/> 370 Other Fraud	<b>Other:</b> <input type="checkbox"/> 540 Mandamus/Other	<input type="checkbox"/> 861 HIA (1395ff)
<input type="checkbox"/> 460 Deportation	<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 550 Civil Rights	<input type="checkbox"/> 862 Black Lung (923)
<input type="checkbox"/> 470 Racketeer Influenced & Corrupt Org.	<input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Vet.)	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 863 DIWC/DIWW (405 (g))
<input type="checkbox"/> 480 Consumer Credit	<input type="checkbox"/> 153 Recovery of Overpayment of Vet. Benefits	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 560 Civil Detainee Conditions of Confinement	<input type="checkbox"/> 864 SSID Title XVI
<input type="checkbox"/> 490 Cable/Sat TV	<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 330 Fed. Employers' Liability	<b>BANKRUPTCY</b>	<b>FORFEITURE/PENALTY</b>	<input type="checkbox"/> 865 RSI (405 (g))
<input type="checkbox"/> 850 Securities/Commodities/Exchange	<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<b>FEDERAL TAX SUITS</b>
<input checked="" type="checkbox"/> 890 Other Statutory Actions	<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)
<input type="checkbox"/> 891 Agricultural Acts	<input type="checkbox"/> 196 Franchise	<input type="checkbox"/> 350 Motor Vehicle	<b>CIVIL RIGHTS</b>	<b>LABOR</b>	<input type="checkbox"/> 871 IRS-Third Party 26 USC 7609
<input type="checkbox"/> 893 Environmental Matters	<b>REAL PROPERTY</b>	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 710 Fair Labor Standards Act	
<input type="checkbox"/> 895 Freedom of Info. Act	<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 720 Labor/Mgmt. Relations	
<input type="checkbox"/> 896 Arbitration	<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 362 Personal Injury-Med Malpractice	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 740 Railway Labor Act	
<input type="checkbox"/> 899 Admin. Procedures Act/Review of Appeal of Agency Decision	<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 365 Personal Injury-Product Liability	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 751 Family and Medical Leave Act	
<input type="checkbox"/> 950 Constitutionality of State Statutes		<input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability	<input type="checkbox"/> 445 American with Disabilities-Employment	<input type="checkbox"/> 790 Other Labor Litigation	
		<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 446 American with Disabilities-Other	<input type="checkbox"/> 791 Employee Ret. Inc. Security Act	
			<input type="checkbox"/> 448 Education		

FOR OFFICE USE ONLY: Case Number:

**CV13-06927**

AFTER COMPLETING PAGE 1 OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED ON PAGE 2.

## CIVIL COVER SHEET

**VIII(a). IDENTICAL CASES:** Has this action been previously filed in this court and dismissed, remanded or closed? ☒ NO ☐ YES

If yes, list case number(s): \_\_\_\_\_

**VIII(b). RELATED CASES:** Have any cases been previously filed in this court that are related to the present case? ☒ NO ☐ YES

If yes, list case number(s): \_\_\_\_\_

**Civil cases are deemed related if a previously filed case and the present case:**

(Check all boxes that apply)

- ☐ A. Arise from the same or closely related transactions, happenings, or events; or
- ☐ B. Call for determination of the same or substantially related or similar questions of law and fact; or
- ☐ C. For other reasons would entail substantial duplication of labor if heard by different judges; or
- ☐ D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

**IX. VENUE:** (When completing the following information, use an additional sheet if necessary.)

(a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named plaintiff resides.

☐ Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

<b>County in this District:*</b>	California County outside of this District; State, if other than California; or Foreign Country
Ventura	

(b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named defendant resides.

☐ Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

<b>County in this District:*</b>	California County outside of this District; State, if other than California; or Foreign Country
Los Angeles	Nevada

(c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** claim arose.

**NOTE: In land condemnation cases, use the location of the tract of land involved.**

<b>County in this District:*</b>	California County outside of this District; State, if other than California; or Foreign Country
Ventura	

**\*Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties**

**Note:** In land condemnation cases, use the location of the tract of land involved

**X. SIGNATURE OF ATTORNEY (OR SELF-REPRESENTED LITIGANT):**

DATE: 09/19/2013

**Notice to Counsel/Parties:** The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet).

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405 (g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405 (g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405 (g))